

REMARKS

Claims 28-44 and 60-73 are pending in the present application. Claims 28-44 and 60-73 stand rejected. No claims were amended and no new matter has been added.

Claim Rejections Under 35 U.S.C. § 102

Claims 28-44 and 60-73 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,287,459 Gniewek, et al. (Gniewek).

A. For claim 28, there are one or more claimed limitations that are not disclosed, taught or suggested by the cited references. Claim 28 recites the following limitations:

means for receiving a read request for said data item;

means for initiating **at least two read operation requests** to at least two of said plurality of data storage devices **in response to receiving said read request**.

1. Claim 28 recites “receiving a read request for said data item...initiating **at least two read operation requests** to at least two of said plurality of data storage devices **in response to receiving said read request**.” Claims 35, 43, and 44 recite similar limitations with “receiving a read request for a **predetermined number** of copies of said data item...initiating read operation requests to a selected number of the data storage devices in response to the read request, the selected number **exceeding the predetermined number**.” Applicants respectfully submit that Gniewek discloses determining the **one cartridge** to read the desired data from **before making the one read request** to the cartridge for the data.

According to the Office Action, column 10, lines 22-32 and 50-51, column 11 lines 45-49, and column 1 lines 51-52 of Gniewek disclose initiating at least two read operations requests to at least two of said plurality of data storage devices in response to receiving said data request. Applicants respectfully submit that Gniewek discloses selecting the **one cartridge** to read the desired data from **before making the one read request** to the cartridge for the data and does not disclose initiating **at least two read operation requests** to at least two of said plurality of data storage devices **in response to receiving said read request**.

Gniewek is directed toward an automated library manager that **selects a recording tape cartridge**, either an original or copy, from the library **to make a read request for desired data** based upon the expected response time (Abstract and column 10 lines 17-34). The logic function of the library manager selects the cartridge for the read request from all the available cartridges in the library based upon the **shortest retrieval time** with the following factors: the location of the cartridge, the current read requests queued for the cartridge, and the robot availability (Column 10, lines 45-60). Next, the library manager makes the one read request for the selected recording tape cartridge.

Gniewek discloses selecting **one cartridge** in the library that has the shortest retrieval time in order to make the **one read request** for the data. Gniewek is silent with respect to making **two read operation requests** to two of a plurality of **data sources for one read request for data**. Further, there is no need to send two read operation requests for one read request for data because Gniewek selects the cartridge with the shortest retrieval time before making a read request to the cartridge and therefore, two read operation requests are unnecessary as the data will be received from the selected cartridge. Thus, Gniewek does not disclose or suggest

initiating **at least two read operation requests** to at least two of said plurality of data storage devices **in response to receiving said read request**.

For at least these reasons, Applicants submit that Gniewek fails to anticipate every limitation of claim 28. Because claims 35, 43, and 44 have similar limitations to claim 28 discussed above, they are not anticipated by Gniewek. Furthermore, because claims 29-34, 36-42 and 60-73 depend from claims 28, 35, 43, and 44, they also are not anticipated by Gniewek.

Applicants assert that, for at least the above reasons, Gniewek fail to anticipate claims 28, 35, 43, and 44 of the present application. Accordingly, Applicants respectfully request that this rejection be withdrawn.

CONCLUSION

If the Examiner has any questions or comments, please contact the undersigned at the number listed below.

The Commissioner is authorized to charge any fees due in connection with the filing of this document to Bingham McCutchen's Deposit Account No. **50-2518**, referencing billing number **7011323001**. The Commissioner is authorized to credit any overpayment or to charge any underpayment to Bingham McCutchen's Deposit Account No. **50-2518**, referencing billing number **7011323001**.

Dated: _____



Respectfully submitted,

By: _____

Peter C. Mei
Reg. No. 39,768

BINGHAM MCCUTCHEN LLP
Three Embarcadero Center
San Francisco, California 94111-4067
Telephone: (650) 849-4960
Facsimile: (650) 849-4800